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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,648	07/23/2002	Jean Kaufmann	FE-19PCT	9225

7590

07/26/2004

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New York, NY 10017

EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/070,648

Applicant(s)

KAUFMANN ET AL.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,4-6,8,10** are rejected under 35 U.S.C. 102(b) as being anticipated by US 4005564 (herein 564).

For claim 1, 564 discloses a snaffle bit for horses comprising a mouthpiece consisting of at most two parts 18,20, which can be placed between the upper and lower jaws and extends crosswise through the mouth, the mouthpiece has a through opening (the openings are at each end where the rings go through) at each of its two ends projecting out from the sides of the mouth, each opening carrying a ring 14,16, wherein the mouthpiece has the shape of an outward-curved bow extending across the tongue and lower jaw and, wherein the bow shape of the mouthpiece is located on a plane extending approximately perpendicular to the through-openings.

For claim 4, 564 discloses the mouthpiece consists of two parts 18,20.

For claim 5, 564 discloses the mouthpiece comprises two side parts (see fig. 3) which are connected by a joint 24,26, wherein the joint can pivot around an axis approximately perpendicular to the plane.

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For claim 6, 564 discloses the joint is located approximately in the center of the mouthpiece (see fig. 3).

For claim 8, 564 discloses a cross section of the mouthpiece is approximately circular.

For claim 10, 564 discloses wherein pivot bearing sockets (the extension at the end of the mouthpiece) which project out from at least one side of the through-openings and which represent extensions of these openings, are provided on the free ends of the mouthpiece, perpendicular to or at an angle of  $< 90^\circ$  to the plane formed by the bow shape.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over 564 (as above) in view of US 290803 (herein 803). 803 teaches a snaffle bit for horses comprising a mouthpiece A, which can be placed between the upper and lower jaws and extends crosswise through the mouth, the mouthpiece has a through opening (the openings are at each end where the rings go through) at each of its two ends projecting out from the sides of the mouth, each opening carrying a ring (not numbered but shown in the figures), wherein the mouthpiece has the shape of an outward-curved bow extending across the tongue and lower

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jaw (see fig. 1 for the outward curved shape). In addition, the mouthpiece comprises two side parts (fig. 1 shows 3 parts, the examiner is considering the first and third (looking from left to right) being the left and the right parts) which are connected by a joint (fig. 1, a joint is created at a,c or the whole ref. A, which also includes a,c on each side), wherein the joint can pivot around an axis approximately perpendicular to the plane. Furthermore, as shown in fig. 4, which replaces a,c, 803 discloses a pin g passes through ends of the side parts, the pin being held in place at an end of the side part containing ref. h, which forms a joint fork (as shown in fig. 4). It would have been an obvious substitution of functional equivalent to substitute the joint connection 24,26 of 564 with a pin passes through the ends of the side parts which form the joint, the pin being held in place in the end of the one of the two side parts which forms the joint fork as taught by 803, since both types of joint connection would perform to connect the parts of the mouthpiece together and allow the parts to pivot.

5. **Claims 9 & 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over 564 (as above) in view of US 458797 (herein 797). 797 teaches a bit comprising a mouthpiece 1 that is made out of steel, which is a non-oxidizing material (col. 3, lines 34-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the mouthpiece of 564 out of steel as taught by 797, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. In re Leshin, 125 USPQ 416.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1,4-11 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.

  
Son T. Nguyen  
Primary Examiner, GAU 3643  
July 22, 2004